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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	)	
	)	
Improving Commission	)	PP Docket No. 96-17
Processes	)	

DOCKET FILE COPY ORIGINAL

BELL ATLANTIC COMMENTS

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Introduction and Summary

Bell Atlantic applauds the Commission for its commitment to "take stock and go beyond previous efforts"[1] to eliminate burdensome and unnecessary regulations. Through this inquiry and other recent efforts, the Commission has exhibited a willingness to listen to its industry constituents, and a new openness to move towards Chairman's Hundt's vision of making this Commission "the most deregulatory, promarket, procompetitive, investment-encouraging, rule-simplifying FCC in history."[2]

The Telecommunications Act of 1996 (the "Act" or the "Telecommunications Act") will completely restructure telecommunications industries. The pace of regulatory reform must accelerate in response. The Act gives the Commission the ability and the mandate to forbear from regulations that are not needed. In order to move to the Chairman's vision, the Commission must make fundamental changes in the way it regulates telecommunications carriers, and it must re-examine the need for each of its regulatory functions. In particular, Bell Atlantic proposes eight items for the Commission to focus its reforms.

1. Eliminate Unnecessary Regulation of LEC New Services -- Current rules delay the introduction of new local exchange carrier ("LEC") interstate services and affirmatively discourage the development of new technologies and services. Because these regulations operate as a barrier before a service can even be introduced, they only serve to hurt consumers who are deprived of the option of whether or not to purchase new services. The Commission should allow

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1 ***Improving Commission's Processes***, Notice of Inquiry, PP Docket No. 96-17 at ¶ 7 (rel. Feb. 14, 1996) ("NOI").

2 Reed Hundt, "Competition is the Key," Speech to Deloitte & Touche Consulting Group, Telecompetition '95 at 1 (Dec. 5, 1995) ("Hundt Speech").

new services to be filed on a single day's notice without a requirement of burdensome cost support or Part 69 waivers and without subsequent price regulation.

2. ***Existing LEC Services that are Under Price Caps Should Have Pricing Restrictions Removed as Soon as There is a Competitive Alternative Available*** -- So long as a potential provider of services has the capability and the willingness to offer a competitive alternative, super normal pricing is checked by the market, and price regulation becomes an unnecessary burden. The Commission should take swift action to put into place a mechanism that allows for the removal of price cap regulation of those services.

3. ***Eliminate Regulation of LEC Earnings*** -- The Commission still retains its sharing rules as a holdover from discredited rate of return regulation. Sharing blunts efficiency incentives and discourages investment in new technology. The result is a detriment to the public interest and a burden to the regulated companies. The Commission has already committed to eliminate sharing, and it should do so without delay.

4. ***Eliminate LEC Depreciation Regulation*** -- Regulation of depreciation rates makes no sense once sharing has been eliminated. Most LECs have already formally recognized that the Commission mandated depreciation levels are divorced from economic reality and have stopped using these rates for their financial books. The only justification for the regulatory fiction of existing regulated depreciation rates was their impact on earnings. With that gone, the Commission should exercise its newly bestowed authority to forbear such regulation.

5. ***Eliminate Regulated Service Cost Allocation Requirements*** -- Once earnings regulation is eliminated, there is also no further need for regulatory cost allocation. This complex and burdensome requirement is rendered meaningless in a world where price regulation is unrelated to an individual company's earnings or costs.

6. ***Eliminate Filing Requirements for Wireless Transmission Facilities Within a Geographic Safe Zone*** -- The Commission already relies on Basic Trading Areas ("BTAs") and other wide-area market definitions in the allocation of wireless spectrum. It can use these wide-area licenses to establish a streamlined process for construction and modification of wireless facilities. Rather than require prior approval for each transmitter, the Commission should allow construction anywhere within the licensed area. This would allow licensees to configure their systems to meet the needs and interests of their subscribers in a timely and more efficient manner.

7. ***Eliminate Unnecessary Reporting Requirements*** -- The Commission should eliminate all unnecessary reports. In its pending rulemaking on reporting requirements, the Commission should aggressively seek to eliminate any reporting requirements that cannot be justified as filling a specific regulatory need.

8. ***Do Not Use the 1996 Act to Create New Regulatory Burdens*** -- The Commission must be vigilant that in meeting its obligations under the Telecommunications Act of 1996, it does not create new regulatory burdens that were not envisioned by Congress and are not required by a legitimate regulatory need. For example, in the recent proposed rulemaking on the former Bell operating companies' provision of out-of-region interLATA services, the Commission proposed to treat those companies the same as other providers of interLATA service, but made that treatment contingent on a separate subsidiary requirement that was rejected in the legislation and, in part, goes beyond the requirement for in-region provision of services. This new burden makes no economic sense and is just the type of regulatory excess that the Commission is seeking to root out here.

If the Commission acts quickly on these eight items, it will have made gigantic strides toward streamlining its regulations and better serving the public good with the minimum intrusion into the marketplace.

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BELL ATLANTIC COMMENTS

Bell Atlantic applauds the Commission for its commitment to "take stock and go beyond previous efforts"[3] to eliminate burdensome and unnecessary regulations. Through this inquiry and other recent efforts, the Commission has exhibited a willingness to listen to its industry constituents, and a new openness to move towards Chairman's Hundt's vision of making this Commission "the most deregulatory, promarket, procompetitive, investment-encouraging, rule-simplifying FCC in history."[4]

Already the Commission has moved on procedures to improve processes and increase efficiencies. The Commission has announced streamlined procedures for rulemakings under the new Telecommunications Act, it has proposed reducing filing requirements and has moved toward putting more information on the Internet at a faster rate. The Notice of Inquiry contains ideas for other potential process efficiencies. All of these are small steps in the right direction, but they are not enough.

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3 NOI at ¶ 7.

4 Hundt Speech at ¶ 1.

The Telecommunications Act of 1996 will result in a complete restructuring of the telecommunications industry. Incremental adjustments in regulation will not be sufficient to match the torrent of change unleashed by the new law. By opening markets and encouraging a blurring of formerly separate industries, the Act instantly creates major new competitors in a variety of telecommunications markets. The Commission must not allow outdated regulatory burdens to be an impediment to competition. Of even greater concern, the Commission can not allow competitors to use regulatory disparities to gain an unfair market advantage.

Therefore, in order truly to move toward the Chairman's vision, the Commission must move quickly to make more fundamental changes in the regulatory process. It must limit its regulatory control of companies' activities to those areas where the public interest actually requires specific action, and even then it should limit its regulations to those that are absolutely necessary to meet that end. The Act mandates regulatory reform and creates a mechanism for regulatory forbearance. The Commission should not maintain its outdated regulatory requirements and passively await a flood of forbearance petitions. Instead, the Commission should make proactive use of use the opportunity presented by the remaking of telecommunications law to rethink its own role, and truly become a deregulatory role model.

While the Commission should question the necessity of each of its regulatory functions, the following list is offered as items for the Commission to focus particular attention. The regulations in question hinder business development, yet offer no true regulatory benefit. Both regulated companies and the public are hurt by such requirements. While many of these reforms have been proposed in other dockets, the Commission has yet to take action. Taking action on these eight items would move the Commission significantly toward the deregulatory model it envisions for itself.

1. ***Eliminate Barriers to LEC New Services*** -- The Telecommunications Act of 1934 requires the Commission to "***encourage*** the provision of new technologies and services to the public."[5] Despite this requirement, the current rules delay the introduction of new interstate services by the LECs, and serve to affirmatively ***discourage*** the development of new technologies and services. Because these regulations operate as a barrier before a service can even be introduced, they only serve to hurt consumers who are deprived of the option of whether or not to purchase new services.[6] The Commission should allow new services to be filed on a single day's notice without a requirement of burdensome cost support or Part 69 waivers and without subsequent price regulation.

All of these regulations are unnecessary because new services are a vehicle to provide customers additional choices, which they are free to accept or reject.[7] The nation's premiere regulatory economist, Alfred E. Kahn, and other experts have testified that totally new services are discretionary by nature and thus there is no economic basis for imposing burdensome price

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5 47 U.S.C. § 157(a) (emphasis added).

6 ***See, e.g.***, letter from Kelsey Hill, Vice President Marriott to William Caton, Acting Secretary (Jan. 19, 1996) ("We have had numerous experiences where tariff filing delays have impacted Marriott by delaying the availability of services. This situation has an adverse impact on Marriott's businesses...").

7 Attached hereto at Tab A is a Bell Atlantic brief and supporting affidavits that raised these arguments in the Commission's review of LEC price cap regulations. ***See Price Cap Performance Review for Local Exchange Carriers***, CC Docket Nos. 94-1, 93-124, 93-197, Comments of Bell Atlantic (filed Dec. 11, 1995) ("Bell Atlantic Comments").

regulations.[8] Moreover, to the extent a new service mirrors an existing regulated service, the existing service serves as a regulated benchmark, with customers retaining the ability to purchase the new service or the existing regulated services based on market preference. In either situation, the potential customer retains the choice of rejecting the new service, and thus additional price controls are unnecessary.[9]

Those parties that have a legitimate basis to argue that a new service is being offered on terms and conditions that are unlawful may rely on the Commission's complaint process. Unlike other regulations, the complaint process does not serve to delay or control services that are offered under lawful terms and conditions and it cannot be as easily manipulated by parties seeking to game the regulatory process for competitive advantage.

Because price regulation discourages introduction of new services and is unnecessary to ensuring that prices are just, reasonable and non-discriminatory, it meets the requirements for regulatory forbearance under Section 401 of the Act. By encouraging new services and avoiding disparate regulatory burdens on a single class of service providers, such forbearance will "promote competitive market conditions," "enhance competition," and further the "public interest."[10] Regulatory delay of new LEC common carrier services costs consumers billions of

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8 Affidavit of Alfred E. Kahn at 14-15, attached to Bell Atlantic Comments ("Kahn Affidavit"); Affidavit of Richard J. Gilbert and Robert G. Harris at 2-3, attached to Bell Atlantic Comments ("Gilbert & Harris Affidavit").

9 The only potential exceptions are mandated interconnection services. While customers of these services are also better off getting the service to market faster, and retain the ability to challenge a rate once the service is introduced, the Commission may nonetheless wish to leave such new services subject to price regulation to prevent price increases.

10 Pub. L. 104-104, § 401, Sec. 10 (b) and Sec. 10 (a)(3) (1996).

dollars a year.[11] Eliminating these unnecessary regulations will provide a significant public benefit .

2. ***Existing LEC Services that are Under Price Caps Should Have Pricing Restrictions Removed as Soon as There is a Competitive Alternative Available*** -- The Commission has recognized that price cap regulation is a temporary requirement that need be left in place only until competition is present.[12] The Commission should move swiftly in its price cap reform docket to implement rules to establish a mechanism to remove price cap controls from those services that face a competitive alternative.[13] Rather than serve as a distraction from that mandate, the market forces unleashed by the Act give further impetus for the need for regulatory reform. So long as a potential provider of services has the capability and the willingness to offer a competitive alternative, super normal pricing is checked by the market, and price regulation becomes an unnecessary burden. As such, it is exactly the type of regulation for which the Act permits forbearance. Competition is stifled when prices are controlled by

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11 ***Price Cap Performance Review for Local Exchange Carriers***, Statement of Professor Jerry A. Hausman at 3, attached to Comments of BellSouth Telecommunications, Inc., CC Docket Nos. 94-1, 93-124, 93-197 (filed Dec. 11, 1995).

12 ***See Price Cap Performance Review for Local Exchange Carriers***, 10 FCC Rcd 8961, 8989-8990 (1995) ("Interim Price Cap Order").

13 Indeed, price cap regulation covers Bell Atlantic services that have faced competition for years without regulatory relief. For example, even two years ago, two thirds of the demand for Bell Atlantic's high capacity services come from areas served by competitive providers. ***See*** Affidavit of Rivhard E. Beville at 18, attached to Bell Atlantic Comments, CC Docket No. 94-1 (filed May 9, 1994). Competition has only increased in the intervening years.

regulators rather than the markets.[14] The resulting harm to consumers is magnified when price regulation hinders only one class of service providers.

The standard for evaluating the competitive potential of a service area should be based on this type of forward looking measure, sometimes called "addressability." As demonstrated in the attached affidavit, if any significant portion of a market is addressable, that is sufficient to act as a price check on the entire market.[15]

In contrast, market share is a backward looking measure that can fail to capture the presence of competitive alternatives. Indeed, the Commission recognized that a market share test was not essential when it declared AT&T a non-dominant carrier.[16] Reliance on a market share test can be harmful if used to force markets to remain price regulated after competition is present. Instead, the Commission should move quickly to put in place a forward looking framework that will eliminate price regulation as soon as it becomes unnecessary.

3. ***Eliminate Regulation of LEC Earnings*** -- Sharing, a carryover from rate of return regulation, is inconsistent with the Commission's price cap scheme and is harmful to the

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14 The regulatory costs of unnecessary price regulation include "inefficiencies caused by holding prices above competitors' or preventing prices from reflecting differences across geographic markets; obtaining and providing information to comply with filing requirements; and the strategic use of regulation by competitors to inhibit the regulated firm form competing effectively in the marketplace." Gilbert & Harris Affidavit at 3.

15 "If more than 25% of a relevant market defined by the LEC is addressable, and consumers are willing and able to switch suppliers at relatively low cost, there should be a strong presumption that the public interest would be served by the removal of price controls in that market." Gilbert & Harris Affidavit at 19-20.

16 ***Motion of AT&T to be Classified as a Non-Dominant Carrier***, Order, FCC 95-427 (rel. Oct. 23, 1995).

public interest. The Commission has already made elimination of sharing a "long term goal,"[17] but there is no reason to delay. The Commission understands that sharing "blunts the efficiency incentives created by the price cap formula,"[18] and thereby "deprives LECs and their customers of the full benefits of lower prices and improved efficiency that a pure price cap scheme can offer."[19]

In addition to the sound economic policy reasons for eliminating sharing, elimination of the last vestige of rate of return regulation will allow the Commission to discard the burdensome regulatory baggage that must accompany earnings regulation. Once the Commission regulates LECs by pure price caps, much of the counter-productive cost reporting and earnings controls will have no further justification.

4. Eliminate LEC Depreciation Regulation -- Current LEC depreciation requirements are a distorted holdover from rate of return regulation. As understood by the financial community, "lengthy depreciation schedules have been forced upon" LECs by state regulators and the Commission in order to depress reported earnings and thereby "keep rates low."[20] But, as Professor Kahn testified, once costs are separated from regulatory limitations on prices, "the factors that have historically induced regulators to prescribe (what are widely

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17 ***Price Cap Performance Review for Local Exchange Carriers***, Fourth Further Notice of Proposed Rulemaking, CC Dkt. 94-1 at ¶ 114 (rel. Sept. 27, 1995).

18 ***Id.***

19 ***Interim Price Cap Order*** at 9047.

20 Riva Atlas, "Honesty isn't such a bad policy -- State and federal regulators force the telephone companies to report phony earnings," Forbes at 118 (July 4, 1994) ("Phony Earnings").

recognized to have been) unrealistically slow depreciation policies for such purposes would no longer apply."[21] Most LECs have already formally recognized that the Commission mandated depreciation levels are divorced from economic reality and have stopped using these rates for their financial books.[22] This means that companies have two sets of depreciation books: one with economically reasonable levels, and one based on regulatory requirements.

The Commission has sought and received legislative authority to forbear from depreciation prescription.[23] This is over and above the generic forbearance authority, which would also apply here. As Commissioner Chong recently recognized, once companies are regulated under pure price caps, depreciation regulation is "obsolete" and not necessary to discharge the Commission's "obligation under the Communications Act to ensure reasonable rates for consumers."[24] As a result, the Commission should act to end "this resource intensive regulatory activity"[25] and allow companies the opportunity to begin "honest bookkeeping."[26]

5. Eliminate Regulated Service Cost Allocation Requirements -- Once earnings regulation is eliminated, there is no further need for cost allocation requirements in Parts 36 and 69. Part 36 separates costs between interstate and intrastate. Part 69 further allocates the

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21 Kahn Affidavit at 13.

22 ***See*** Leslie Cauley, "BellSouth Plans $2.7 Billion Charge for 2nd Quarter, Resulting in Net Loss," *Wall Street Journal*, July 3, 1995, at B2.

23 Telecommunications Act, § 403(d).

24 Separate Statement of Commissioner Chong at 2, attached to ***Prescription of Revised Percentages of Depreciation***, Memorandum Opinion and Order, FCC 96-22 (rel. Jan. 26, 1996).

25 ***Id.***

26 "Phony Earnings" at 118

interstate costs to different access categories. These costs are directed through a complex and pervasive system. This is an expensive and intrusive burden that is only a product of earnings regulation. In a world of pure price caps, cost allocation is irrelevant. Prices are divorced from regulated costs. There is no need for additional cross-subsidy safeguards because, as Professor Kahn has explained, a price cap regulated LEC "is no more able to cross-subsidize than an unregulated firm: if it invests money in the destruction of its rivals, it will have to absorb that investment as a reduction in its earnings."[27]

The growing number of states that regulate using pure price caps similarly have no need for intrastate cost data. For those remaining states that require cost information to set rates, the Commission can mandate that intrastate cost data can be based on a single fixed allocator. As shown in Tab B, overly complex Part 36 allocations have resulted in a uniform distribution over time with a variance of less than a tenth of a percent. There is simply no reason for continuation of the current burdensome regulations, just to arrive at an almost identical allocation year after year.[28]

6. Eliminate Filing Requirements for Wireless Transmission Facilities Within a Geographic Safe Zone -- The Commission already relies on Basic Trading Areas ("BTAs"), Major Trading Areas ("MTAs"), and other wide-area market definitions in the allocation of

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27 Kahn Affidavit at 13.

28 The Commission should also reform the Part 64 rules, which allocate costs between regulated LEC services and non-regulated services. For example, current rules require annual audits, while the Act recognizes that such costly and burdensome audits are only required every other year for the separate subsidiaries required by the Act. ***Compare*** 47 C.F.R. § 64.904 ***with*** the Act, § 151, Sec. 272 (d) (1).

spectrum for a variety of wireless services. It can use these wide-area licenses to establish a blanket licensing approach that would streamline process for construction and modification of wireless facilities. Rather than require prior approval for each transmitter, the Commission should allow construction anywhere within the licensed area, subject to interference protection standards.[29] By using these predefined clear boundaries, the Commission would avoid the entire costly and time-consuming application process. This would allow licensees to configure their systems to meet the needs and interests of their subscribers in a timely and more efficient manner.

7. ***Eliminate Unnecessary Reporting Requirements*** -- As part of this inquiry, the Commission has asked how the quantity of paperwork required of regulated entities could be reduced. In a separate rulemaking, the Commission has proposed elimination of certain unnecessary reports.[30] Bell Atlantic supports the Commission's efforts, and in its comments there, Bell Atlantic will propose elimination of additional reporting requirements that have no continuing purpose.

8. Do Not Use the 1996 Act to Create New Regulatory Burdens -- In this Notice of Inquiry, the Commission recognized the link between the deregulatory promise of the

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[29] As Bell Atlantic has previously proposed, the licensee should still be responsible to coordinate with adjacent licensees regarding interference at service boundaries. ***See Rulemaking to Amend Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, CC Docket No. 92-297***, Comments of Bell Atlantic at 4 (filed Sept. 7, 1995).

[30] ***Revision of Filing Requirements***, Notice of Proposed Rulemaking, CC Docket No. 96-23 (rel. Feb. 27, 1996).

Telecommunications Act of 1996 and the need for regulatory reform.[31] While creating the new mechanisms for competition envisioned in the Act, the Commission must be vigilant that it does not create new regulatory burdens that were not envisioned in the Act, and are not required by a legitimate regulatory need. For example, in the recent proposed rulemaking on Bell operating company provision of out-of-region interLATA services, the Commission proposed to treat those companies the same as other providers of interLATA service, but made that treatment contingent on a separate subsidiary requirement that was rejected in the legislation and, in part, goes beyond the requirement for in-region provision of services.[32] This new burden makes no economic sense and is just the type of regulatory excess that the Commission is seeking root out here.

One area of particular concern given a history of past excess is the regulation of LEC provision of video services. Prior to the act, the Commission regulated LEC video services with redundant layers of unnecessary regulation. The legislation rejected this model and repealed those regulations.[33] In its upcoming open video system rulemaking, the Commission must take care that it not re-impose similar or new burdens on this fledgling industry. In creating the new regulatory options under the Act, Congress has recognized that open video systems will compete with incumbent cable operators and tariff-like price rules, product-specific cost allocation or other burdensome requirements imposed on video dialtone should not be introduced here.

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[31] NOI at ¶ 2.

[32] ***Bell Operating Company Provision of Out-of-Region Interstate, Interexchange Services***, Notice of Proposed Rulemaking, CC Docket No. 96-21 (rel. Feb. 14, 1996).

[33] Telecommunications Act, § 302(a) (adding new Section 651(c) to the Cable Communications Policy Act of 1984, 47 U.S.C. § 521 et seq.).

Conclusion

The Commission recognizes that the passage of the Telecommunications Act of 1996 presents a unique opportunity to reassess processes and requirements. The Commission should follow through on its commitment and eliminate all unnecessary regulations, including those outlined herein.

Respectfully submitted,

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	)	
Treatment of Operator Services Under Price Cap Regulation	)	CC Docket No. 93-124
	)	
Revisions to Price Cap Rules for AT&T	)	CC Docket No. 93-197

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TABLE OF CONTENTS

Introduction and Summary

This rulemaking[1] presents an historic opportunity for the Commission to embrace the changes happening in the world around it and to eliminate unnecessary regulations that impede competition and ultimately harm consumers and competitors alike. The Commission already has recognized the revolution occurring in the technology and markets it oversees. The Commission must now recognize that the time for creeping incremental reform is past. In today's rapidly changing and increasingly competitive environment, the decades-old regulatory structure inherited by the Commission is outdated, anticompetitive and ultimately anti-consumer. It must be fundamentally overhauled.

While incremental adjustments to the existing regulations are superficially easy, they perpetuate inefficiencies and distortions inherent in the current rules. Both the House and Senate recognized this in their overwhelming passage of legislation that would rewrite fifty years of communications laws. In both versions of the Telecommunications Reform Bill, legislators have demonstrated a clear preference for less regulation, more competition and encouragement of new services. In order to avoid being an impediment to new service introduction and increased competition, the Commission must recognize that fundamental changes are also needed in the current rules for the introduction, pricing and subsequent treatment of local exchange carrier ("LEC") interstate services. Most of

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[1] Second Further Notice of Proposed Rulemaking in CC Docket No. 94-1, Further Notice of Proposed Rulemaking in CC Docket No. 93-124, and Second Further Notice of Proposed Rulemaking in CC Docket No. 93-197 (rel. Sept. 20, 1995) ("Second Notice").

these changes will benefit the market regardless of the level of competition. The remaining changes are necessary to set a proper framework to facilitate removal of unnecessary regulation as competition continues to grow.

First, the Commission must immediately eliminate its distinction between dominant and non-dominant service providers. As Professors Richard Gilbert and Robert Harris make clear in their attached joint affidavit, and as the Commission itself recently recognized, the advance notice requirements associated with dominant carrier regulation make no sense for any company, but are affirmatively anticompetitive when applied to the largest provider of a particular service. This means the Commission should immediately allow tariffs for new services, new service options, or alternative pricing plans to be filed on one day's notice without cost support.

Second, the Commission must eliminate additional impediments for new services and lower prices by eliminating price regulation of these same services. As Professor Alfred Kahn, the nation's preeminent regulatory economist previously testified, such regulation is unnecessary and only succeeds in inhibiting the introduction of new services and denying customers the resulting benefits. Specifically, this means elimination of the superfluous and outdated Part 69 waiver process. It also means that these new services should not have price cap restrictions imposed upon them. Instead, the market should dictate the success or failure of the service or promotion. Such a rule change will also facilitate the offering of contract tariff packages to accommodate end-user customers that have more individualized needs.

Third, the Commission should remove price regulation from all remaining services just as soon as there are competitive alternatives available. This does not mean waiting until uneven regulation forces a LEC to yield significant market share. Instead, the standard for removal of price regulation should be grounded in the presence of competitive providers with a real ability to limit price. The LECs should also have the flexibility to define the relevant scope of services to be removed from price caps -- whether based on geography, service or customer-segment. Predetermined geographic or service definitions are unlikely to match the actual pattern of competition experienced by an individual LEC and it would be harmful for the Commission to make a prejudgment here.

Finally, for the time services remain in price caps, the Commission should reform its price cap rules to encourage competition.[2] This means the Commission should allow downward pricing flexibility without restrictions. It would be truly anticompetitive for the Commission to perpetuate rules that forbid or penalize price reductions. The Commission should also restructure its price cap baskets to facilitate the transition from price caps. Specifically, it should include in its interexchange basket all services, including all operator services, that compete with interexchange services. Such a grouping will not only ease the transition to competitive pricing, it will allow the

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2 While not part of this proceeding, the Commission should also move forward on Chairman Hundt's commitment to reform interstate access charges to further level the competitive playing filed. Specifically, Carrier Common Line rates should be reduced and offset by increases in the Subscriber Line Charge. *See* Speech by Reed Hundt presented to the United States Telephone Association (Nov. 2, 1995).

Commission to implement a productivity offset that levels the playing field for these services.

These reforms are necessary to effectuate the goals of this proceeding. Indeed, encouraging new services will inevitably have the impact of providing consumers with more choice at lower prices. Many commenters will nonetheless advocate a "go slow" approach that superficially sounds safer. There is no truly safe course in a revolution, however, and failure to adopt economically appropriate policy changes are far more harmful than imposing new rules that ignore economic truths. The Commission must resist the "easy" solutions that perpetuate unfair and harmful regulations.

The harm from policies that inequitably penalize one industry segment and slow or prevent their new services from reaching market cannot be undone. In a prior filing, Professor Harris outlined the "drastic failures" of non-adaptive regulatory policies in the railroad industry.[3] While regulatory reform has "revitalized" the railroad industry, it was only after the industry was in "financial and physical ruin."[4] The Commission must

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3 ***Price Cap Performance Review for Local Exchange Carriers***, CC Docket 94-1, Reply Comments of the United States Telephone Association ("USTA"), Attachment 1 -- Report on LEC Price Cap Reforms by Robert Harris at 7-10 (filed June 29, 1994) ("Harris Affidavit").

4 ***Id***. at 8-9.